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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,841	08/30/2001	Christian Mayaud	47777-0008	6708

53437 7590 04/19/2006

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EXAMINER
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KOPPIKAR, VIVEK D

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/941,841	MAYAUD, CHRISTIAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vivek D. Koppikar	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 70-115 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 70-115 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Status of the Application***

1. Claims 70-115 are pending and have been examined in this application. This communication is a FINAL Office Action.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 70-77, 81-82, 84-86, 91-100, 102-107, 111-113 and 115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirk in view of "Lunar Radiation Corp."

(A) As per amended claim 70, Kirk teaches a computerized prescription system (Kirk: Abstract):

at least one user computer, said user computer having a graphical user interface facilitating fulfillment of electronic prescription information and providing access to (1) information about a patient's prescription history (Figure 2; Col. 1, Ln. 50-Col. 2, Ln. 3; and Col. 3, Ln. 20-42).

Kirk does not teach that (2) information about pharmaceuticals arranged by medical conditions for which the pharmaceuticals are suitable for treating, however, this feature is taught by "Lunar Radiation Corp" (Main Paragraph, Sentence 2). At the time of the invention it would have been obvious for one of ordinary skill in the art to have modified the system of Kirk with the aforementioned feature from "Lunar Radiation Corp." with the motivation of giving users of

the system a more efficient and meaningful means of managing patient data, as recited in “Lunar Radiation Corp.” (Main Paragraph, Sentence 4).

(B) As per claims 71-83, the rejection for these claims was set forth in the Office Action dated October 18, 2005 and is herein incorporated by reference to this Office Action.

(C) As per claim 84, Kirk teaches a computer implemented method of facilitating fulfillment of a prescription (Kirk: Abstract), comprising the steps of:

- a. displaying prescription information using a computer interface (Kirk: Col. 4, Ln. 47-Col. 5, Ln. 21);
- b. said prescription information having been formatted for communications (Kirk: Col. 4, Ln. 47-Col. 5, Ln. 21).
- c. receiving said prescription information at a pharmacy over a communication link to be filled (Kirk: Figure 2 and Col. 3, Ln. 20-42).

Kirk does not teach the step of including a patient condition associated with a prescription, however, this feature is taught by “Lunar Radiation Corp” (Main Paragraph, Sentence 2). At the time of the invention it would have been obvious for one of ordinary skill in the art to have modified the system of Kirk with the aforementioned feature from “Lunar Radiation Corp.” with the motivation of giving users of the system a more efficient and meaningful means of managing patient data, as recited in “Lunar Radiation Corp.” (Main Paragraph, Sentence 4).

(D) As per claims 85-86, the rejection for these claims was set forth in the Office Action dated October 18, 2005 and is herein incorporated by reference to this Office Action.

(E) As per claim 91, Kirk teaches a computerized prescription system (Kirk: Abstract), comprising:

at least one user computer, said user computer having a graphical user interface permitting display of prescription information received from a prescriber and providing access to: at least one user computer, said user computer having a graphical user interface permitting display of prescription information received from a prescriber and providing access to one or more of (1) information about a patient's medical history, (2) information about therapeutic agents and (3) information about individual prescriber activity (Figures 1-2; Col. 1, Ln. 50-Col. 2, Ln. 3; and Col. 3, Ln. 20-42).

Kirk does not teach the steps of including at least one medical condition of a patient or including information regarding the medical condition for which a therapeutic agent is prescribed for, however, this feature is taught by "Lunar Radiation Corp" (Main Paragraph, Sentence 2). At the time of the invention it would have been obvious for one of ordinary skill in the art to have modified the system of Kirk with the aforementioned feature from "Lunar Radiation Corp." with the motivation of giving users of the system a more efficient and meaningful means of managing patient data, as recited in "Lunar Radiation Corp." (Main Paragraph, Sentence 4).

(F) As per claims 92-95, the rejection for these claims was set forth in the Office Action dated October 18, 2005 and is herein incorporated by reference to this Office Action.

(G) As per claim 96-100 and 102, these claim repeats features previously addressed in the rejection of claims 70 , 84 and 91 and are rejected on the same basis.

Furthermore, as per claim 100, "Lunar Radiation Corp." teaches a means of providing drug formulary preferences (of a patient's drug provider) to ensure that the electronic

prescription is filled with a benefit plan recommended drug (“Lunar Radiation Corp.”: Main Paragraph, Sentences 2 and 4). The motivation for making this modification to the combined system of Kirk in view of “Lunar Radiation Corp.” and Kehr was the same as that was set forth in the rejection of Claim 70 above. (Note: “Lunar Radiation Corp.” teaches that database results are retrieved and displayed and this information includes patient information as well as therapy (drug) information. The examiner takes the position that drug formulary preferences is within the scope of therapy information. Furthermore, “Lunar Radiation Corp.” states that the above stated information is provided to “ensure that the electronic prescription is filled with a benefit plan recommended drug” and the examiner takes the position that since the motivation of using the system of “Lunar Radiation Corp.” is to provide users with more meaningful and efficient record management the above stated reason of ensuring that benefit plan recommended drugs are prescribed is to ensure that the prescription drug system functions more efficiently.

(H) As per claims 103-106, 111-112 and 114, the rejection for these claims was set forth in the Office Action dated October 18, 2005 and is herein incorporated by reference to this Office Action.

(I) As per claim 115, this claim repeats features previously addressed in the rejection of claim 70 and is rejected on the same basis.

4. Claims 78-80, 83, 87-90, 108-110 and 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirk in view of “Lunar Radiation Corp.”, as applied to Claims 70, 84, 102, above in view of US Patent Number 5,774,879 to Custy. The rejection for these claims was set forth in the Office Action dated October 18, 2005 and is herein incorporated by reference to this Office Action.

5. Claim 101 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kirk in view of “Lunar Radiation Corp.” and in further view of US Patent Number 5,642,731 to Kehr. The rejection for these claims was set forth in the Office Action dated October 18, 2005 and is herein incorporated by reference to this Office Action.

Furthermore, “Lunar Radiation Corp.” teaches a means of providing drug formulary preferences (of a patient’s drug provider) to ensure that the electronic prescription is filled with a benefit plan recommended drug (“Lunar Radiation Corp.”: Main Paragraph, Sentences 2 and 4). The motivation for making this modification to the combined system of Kirk in view of “Lunar Radiation Corp.” and Kehr was the same as that was set forth in the rejection of Claim 70 above. (Note: “Lunar Radiation Corp.” teaches that database results are retrieved and displayed and this information includes patient information as well as therapy (drug) information. The examiner takes the position that drug formulary preferences is within the scope of therapy information. Furthermore, “Lunar Radiation Corp.” states that the above stated information is provided to “ensure that the electronic prescription is filled with a benefit plan recommended drug” and the examiner takes the position that since the motivation of using the system of “Lunar Radiation Corp.” is to provide users with more meaningful and efficient record management the above stated reason of ensuring that benefit plan recommended drugs are prescribed is to ensure that the prescription drug system functions more efficiently.

#### ***Response to Arguments***

6. Applicant's arguments filed March 13, 2006 have been fully considered but they are not persuasive. Applicants arguments will be addressed in sequential order as they were presented in the Arguments section.

In Section I the Applicants argue that Kirk neither teaches nor suggests the electronic display, creation or transmission of prescription information. However, the examiner would like to point out that Kirk in fact does teach these features (Kirk: Col. 5, Ln. 55-Col. 6, Ln. 5). In this section Kirk explains that prescription information is created and then transmitted via a modem. The system of Kirk also includes a printer (Figure 5: (114)) and electronic reports (electronic display) (Figure 5: (130)) for displaying the patient (prescription information).

In Section VI the applicants argue that Kirk fails to teach or suggest a graphical user interface. However, Kirk teaches a graphical user interface as part of the portable computer (Kirk: Col. 3, Ln. 20-22 and Ln. 56-61).

Applicant's arguments presented in Sections II, III, IV and V have been considered but are moot in view of the new ground of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquire concerning this communication or earlier communications from the examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109. The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. The fax telephone numbers for this group are either (571) 273-8300 or (703) 872-9326 (for official communications including After Final communications labeled "Box AF").


Another resource that is available to applicants is the Patent Application Information Retrieval (PAIR). Information regarding the status of an application can be obtained from the (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAX. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please feel free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sincerely,

Vivek Koppikar

4/6/2006



JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER